

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DANIEL YARNALL
203 Hendricks Avenue
Exton, PA 19341-2716,

Plaintiff,

vs.

MCGUIGAN LAW OFFICE, LLC
311 Veterans Highway, Ste 100A
Levittown, PA 19056

and

LMM MANAGEMENT LLC
311 Veterans Highway, Ste 100A
Levittown, PA 19056,

Defendants

CIVIL ACTION

NO.

COMPLAINT

I. INTRODUCTION

1. This is an action for damages brought by a consumer pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 (“FDCPA”).

2. The FDCPA prohibits debt collectors from engaging in deceptive and unfair practices in the collection of a consumer debt.

3. Defendants are subject to strict liability for sending a collection letter which violates the provisions of the FDCPA.

II. JURISDICTION

4. Jurisdiction arises under 15 U.S.C. § 1692k, and 28 U.S.C. § 1337.

III. PARTIES

5. Plaintiff Daniel Yarnall (“Plaintiff”) is a consumer who resides in Exton, Pennsylvania at the address captioned.

6. Defendant McGuigan Law Office, LLC is a Pennsylvania corporation with an office for the regular transaction of business at the address captioned.

7. Defendant LMM Management LLC is a Pennsylvania corporation in the business of purchasing and collecting charged off consumer debt.

8. LMM Management LLC has an office for the regular transaction of business at the address captioned.

9. LMM Management LLC and McGuigan Law Office, LLC are collectively referred to as “Defendants” or “McGuigan Law Office”.

10. Defendants regularly engage in the collection of consumer debts in the Eastern District of Pennsylvania using the mails and telephone.

11. Defendants regularly attempt to collect consumer debts alleged to be due another.

12. Each Defendant is a “debt collector” as that term is contemplated in the FDCPA, 15 U.S.C. § 1692a(6).

IV. STATEMENT OF CLAIM

13. On April 24, 2012, Defendants sent Plaintiff a form collection letter attempting to collect a consumer debt alleged due its client. A copy of the April 24, 2012 letter is attached hereto as Exhibit A (redacted in part per Fed. R. Civ. 5.2).

14. The April 24, 2012 collection letter purports to come from the McGuigan Law Office

15. The April 24, 2012 letter is on the letterhead of:

McGuigan Law Office, LLC

(Ex. A).

16. The April 24, 2012 collection dun states in part: “Please be advised that this office represents the above-named creditor. This is a second demand for full payment because you have had ample time to pay your creditor.”

17. The collection dun is signed by the “McGuigan Law Office, LLC.”

18. The April 24, 2012 collection dun from McGuigan Law Office represents or implies a level of attorney involvement in the sending of the collection letter. However, there was no such involvement.

19. The collection dun falsely implies that the collection of the account has been escalated by the hiring of a law firm to take steps, including the possible filing of a law suit, to collect the account.

20. In reality, and unbeknownst to the consumer, Defendants send this form collection letter in their capacity as debt collectors only.

21. McGuigan Law Office did not send the April 24, 2012 collection letter.

22. The sentence in the April 24, 2012 collection letter, “At this time, no attorney with this firm has personally reviewed the particular circumstances of your account”, is itself confusing, and does not ameliorate the effect of the collection letter sent on attorney letterhead.

23. Defendants state in the April 24, 2012 collection dun that McGuigan Law Office represents Citicorp Trust Bank.

24. McGuigan Law Office does not represent Citicorp Trust Bank.

25. The FDCPA prohibits debt collectors from using any false, deceptive, or misleading representations or means in connection with the collection of any debt. 15 U.S.C. § 1692e.

COUNT I
(FAIR DEBT COLLECTION PRACTICES ACT)
(v. McGuigan Law Office, LLC)

26. Plaintiff repeats the allegations contained above as if the same were set forth at length herein.

27. The acts by Defendant McGuigan Law Office, LLC described above violated the Fair Debt Collection Practices Act by using false, deceptive, or misleading representations or means in connection with the collection of any debt, in violation of 15 U.S.C. § 1692e, § 1692e(3), § 1692e(10), and § 1692e(14).

WHEREFORE, Plaintiff Daniel Yarnall demands judgment against Defendant McGuigan Law Office, LLC, for:

- (a) Damages;
- (b) Attorney's fees and costs; and
- (c) Such other and further relief as the Court shall deem just and proper.

COUNT II
(FAIR DEBT COLLECTION PRACTICES ACT)
(v. LMM Management LLC)

28. Plaintiff repeats the allegations contained above as if the same were set forth at length herein.

29. The acts by Defendant LMM Management LLC described above violated the Fair Debt Collection Practices Act by using false, deceptive, or misleading

representations or means in connection with the collection of any debt, in violation of 15 U.S.C. § 1692e, § 1692e(3), § 1692e(10), and § 1692e(14).

WHEREFORE, Plaintiff Daniel Yarnall demands judgment against Defendant LMM Management LLC, for:

- (a) Damages;
- (b) Attorney's fees and costs; and
- (c) Such other and further relief as the Court shall deem just and


proper.

V. DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury as to all issues so triable.

Date: 4/12/13

Respectfully submitted:



CARY L. FLITTER
THEODORE E. LORENZ
ANDREW M. MILZ
Attorneys for Plaintiff

FLITTER LORENZ, P.C.
450 N. Narberth Avenue, Suite 101
Narberth, PA 19072
(610) 822-0781

EXHIBIT “A”

McGuigan Law Office, LLC

311 Veterans Highway • Suite 100 A
Levittown, PA 19056

Toll Free (877) 543-6152
Fax (215) 526-2618
Direct Dial (215) 526-2700

April 24, 2012



E *****AUTO**MIXED AADC 350
35915-26A/ [REDACTED] 49/14423/DM2P 0634
DANIEL T YARNALL
203 HENDRICKS AVE
EXTON, PA 19341-2716

109644

13

109644



RE: **Original Creditor:** Citicorp Trust Bank
 Current Balance: [REDACTED]
 Our Account Number.: [REDACTED] 49
 Original Account Number.: [REDACTED] 77

Dear Daniel T Yarnall:

Please be advised that this office represents the above-named creditor. This is a second demand for full payment because you have had ample time to pay your creditor. Sometimes we can arrange installment payments, but you must contact this office for arrangements. At this time, no attorney with this firm has personally reviewed the particular circumstances of your account. However, if you decide not to contact this office, our client may consider all available remedies to recover on the balance due, which may include an attorney review of your account.

This communication is from a debt collector. This is an attempt to collect a debt and any information, obtained will be used for that purpose.

Your attention to this matter is requested; please call our office. The toll free number is 1-877-543-6152.

Sincerely,

McGuigan Law Office, LLC.

DM2P